

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)	
AVERAGE WHOLESale PRICE)	MDL No. 1456
LITIGATION)	
)	CIVIL ACTION: 01-CV-12257-PBS
THIS DOCUMENT RELATES TO:)	
)	Judge Patti B. Saris
ALL ACTIONS)	
)	

PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL

Plaintiffs, by their attorneys, respectfully move this Court for leave to file under seal the following pleadings and other materials: (1) Reply Declaration of Raymond S. Hartman in Support of Plaintiffs' Motion for Partial Summary Judgment Against All Track 1 Defendants; (2) Plaintiffs' Reply Memorandum in Support of Motion for Partial Summary Against Defendant BMS; (3) Plaintiffs' Reply in Support of Summary Judgment Against Johnson & Johnson; (4) Reply Declaration of Steve W. Berman in Support of Plaintiffs' Reply in Support of Summary Judgment Against Johnson & Johnson; (5) Plaintiffs' Reply to Schering-Plough Corporation's and Warrick Pharmaceutical Corporation's Memorandum in Opposition to Plaintiffs' Motion for Partial Summary Judgment Against All Track 1 Defendants and Responses to Plaintiffs' L.R. 56.1 Statement of Undisputed Material Facts in Support of Motion for Partial Summary Judgment Against All Track 1 Defendants; (6) Reply Declaration of Steve W. Berman in Support of Plaintiffs' Reply to Schering-Plough Corporation's and Warrick Pharmaceutical Corporation's Memorandum in Opposition to Plaintiffs' Motion for Partial Summary Judgment

Against All Track 1 Defendants and Responses to Plaintiffs' L.R. 56.1 Statement of Undisputed Material Facts in Support of Motion for Partial Summary Judgment Against All Track 1 Defendants; (7) Plaintiffs' Reply in Support of Motion for Partial Summary Judgment on Behalf of Classes 1 and 2 Against Defendant AstraZeneca Based on Its Guilty Plea Related to Zoladex; (8) Opposition to AstraZeneca Pharmaceutical LP's Counter Statement To Plaintiffs' Local Rule 56.1 Statement in Support of Plaintiffs' Motion for Partial Summary Judgment on Behalf of Classes 1 and 2 Against Defendant AstraZeneca Based on Its Guilty Plea Related to Zoladex; (9) Declaration of Kenneth A. Wexler Filed in Connection With Plaintiffs' Reply in Support of Motion for Partial Summary Judgment on Behalf of Classes 1 and 2 Against Defendant AstraZeneca Based on Its Guilty Plea Related to Zoladex; (10) Plaintiffs' Reply As to AstraZeneca Pharmaceuticals LP's Supplemental Memorandum of Law in Opposition to Class Plaintiffs' Motion for Partial Summary Judgment on Defendants' Affirmative Defenses; (11) Reply Declaration of Steve W. Berman in Support of Plaintiffs' Reply as to AstraZeneca Pharmaceuticals LP's Supplemental Memorandum of Law in Opposition to Class Plaintiffs' Motion for Partial Summary Judgment on Defendants' Affirmative Defenses; (12) Reply Memorandum in Further Support of Plaintiffs' Motion for Partial Summary Judgment on Defendants' Affirmative Defenses; and (13) Reply Declaration of Steve W. Berman in Support of Reply Memorandum in Support of Plaintiffs' Motion for Partial Summary Judgment on Defendants' Affirmative Defenses.

The foregoing items include or reference copies of documents and/or excerpts from documents that certain defendants have identified as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" pursuant to the terms of the December 13, 2004 Protective Order. Also, the foregoing items reference information contained in documents designated by certain defendants

as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL.” In addition, the foregoing items not only quote extensively from and/or attach documents that certain defendants have designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL,” but also they include references to pricing data that defendants likely believe to be highly proprietary in nature.

Paragraph 15 of the Protective Order mandates that any document or pleading containing material such as that referenced above be filed under seal. Plaintiffs hereby seek to comply with the terms of the Protective Order.

While plaintiffs seek to file the above-listed items under seal in order to comply with the Protective Order, plaintiffs believe that much if not all of the material that defendants have designated or likely deem to be “CONFIDENTIAL” or HIGHLY CONFIDENTIAL is not truly confidential or highly confidential. Accordingly, plaintiffs plan to move for an order unsealing the summary judgment (and other) materials recently filed by defendants under seal, in addition to the materials that plaintiffs themselves hereby seek to file under seal.

WHEREFORE, Plaintiffs respectfully request that this Court grant them leave to file the foregoing listed materials under seal.

DATED: April 28, 2006

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